

**IN THE MAGISTRATES' COURT  
AT BA  
CRIMINAL JURISDICTION**

*Traffic Case No. 14/2024*

**BETWEEN: STATE**

**PROSECUTION**

**AND: SHANIYA SHRISHA ROY**

**ACCUSED**

**Counsel:** PC 5647 Pranil Nair for Police Prosecution  
Mr. R. Filipe for the Accused.

**Date of Trial:** 22 January 2026

**Date of Judgment:** 31 March 2026.

**JUDGMENT**

Introduction

1. Ms. Shaniya Shrisha Roy ("the Accused") was issued with a Traffic Infringement Notice ('TIN') being TIN No. 4852814 on 2 March 2024. The Accused was charged for the following offence:

*Statement of Offence*

***Careless Driving:*** *Contrary to Section 99(1) and 114 of the Land Transport Act 1998.*

*Particulars of Offence*

***Shaniya Shrisha Roy*** *on the 2<sup>nd</sup> day of March 2024 at Ba in the Western Division drove a motor vehicle registration number EU 906 at Veisaru without due care and attention.*

2. On 22 March 2024, the Accused filed a Notice for Disputed TIN disputing the TIN issued against her.
3. On 5 December 2024, the Accused pleaded Not Guilty to the charge and the matter was fixed for Trial.
4. On the date of Trial, 22 January 2026, Prosecution called 1 witness and thereafter closed its case. This Court found that a case was made out against the Accused to sufficiently require her to make a defence in respect of the charge. The procedure under section 179 of the Criminal Procedure Act was explained to the Accused. It was also explained to the Accused that she had a right to remain silent. The Accused chose to remain silent and not call any witnesses.
5. Initially, Prosecution had informed that they would file closing submissions whilst Defence counsel informed that they would rely on the record. Time was given to Prosecution, however, on 27 February 2026, Prosecution informed that they would rely on the record as well.
6. It should also be noted that before Trial commenced, Defence agreed to tender the following documents by consent:

- i. Caution Interview of the Accused – ‘PEX1’
- ii. TIN Number 4852814 – ‘PEX2’
- iii. Rough Sketch Plan – ‘PEX3’.

7. Having considered the evidence presented by Prosecution, I now pronounce my Judgment.

#### Burden of Proof

8. It is imperative to highlight that as a matter of law, the onus or burden of proof rests on the prosecution throughout the trial and it never shifts to the accused. There is no burden on an accused to prove his or her innocence as an accused is presumed to be innocent until proven guilty.
9. It is for the prosecution to prove the accused’s guilt beyond a reasonable doubt. If there is doubt, so that the court is not sure of the accused’s guilt, or if there be any hesitation in the court’s mind on any of the ingredients or on the evidence led by prosecution, the accused must be found not guilty of the charges and accordingly acquitted.

#### Summary of Evidence

10. PC 3429 Tevita (‘PC Tevita’) testified that on 26 March 2024, he had been on dayshift at Ba Police Station when he had received a call regarding an accident at Veisaru, Back Road. He explained that he had left out in the Police vehicle to attend to the report.
11. Upon arriving, PC Tevita stated that he saw the accident vehicle with registration number EU 906 on the roadside. Upon enquiring, he found out that the Accused had been the driving.
12. PC Tevita then drew the Rough Sketch Plan being ‘PEX3’ and took the necessary measurements. He explained that there were no marking and that the road was narrow. PC Tevita stated that the Rough Sketch Plan showed the tyre marks where the vehicle had gone off-road and into the drain which was on the left-hand side of the road just beside the road.
13. He then went on to explain that he conducted her Caution Interview being ‘PEX1’ and that she had admitted that she was the driver and then he issued her a TIN being ‘PEX2’.

#### Evaluation of Evidence

14. It is important to note that the Accused chose to remain silent and not call any witnesses, the Court is mindful that no adverse inference can be made against the Accused in this regard.
15. Thus, the Court will need to evaluate the evidence by Prosecution by evaluating the testimonial trustworthiness of the evidence which will be done by evaluating the credibility – the correctness or veracity of the evidence and the reliability of evidence – the accuracy of the evidence - vide **State v Prasad Criminal Case No. HAC 72 of 2021 (20 June 2024)**. In doing this, the Court should consider the promptness/spontaneity, probability/improbability, consistency/inconsistency, contradictions/omissions, interestedness/disinterestedness/bias, the demeanour and deportment in Court and the evidence of corroboration where it is relevant. (vide **State v Moroci Criminal Case No. HAC 161 of 2023 (26 April 2024)**).

16. For a proper analysis of the evidence, it is imperative for the Court to turn its mind to the elements for Careless Driving, which are:
  - i. the accused
  - ii. drove a motor vehicle
  - iii. on a public street
  - iv. without due care and attention.
17. From the outset there is no issue with the identification of the Accused as the Accused acknowledges she had been driving the motor vehicle EU 906 when the accident took place along Veisaru Back Road and that she had been issued with a TIN being 'PEX2'. The Accused contends that she was not driving without due care and attention.
18. Before turning to Prosecution's case, it is important to address that the evidence of PC Tevita touched on 26 March 2024 whereas the date in the Caution Interview stated that the alleged offending took place on 2 March 2023 whilst the date on the TIN highlights that it took place on 2 March 2024.
19. Section 182(3)(a) of the Criminal Procedure Act states that a variance between the charge and the evidence produced in support of it with respect to the date and time at which an alleged offence was committed is not material and the charge need not be amended for such variation. Thus, such variance, therefore, does not materially affect the matter.
20. Turning to Prosecution's evidence, PC Tevita testified that he had been on dayshift at Ba Police Station when he had received a call regarding an accident at Veisaru, Back Road. He explained that he had left out in the Police vehicle to attend to the report.
21. Upon arriving, PC Tevita stated that he saw the accident vehicle with registration number EU 906 on the roadside. He explained that it had been removed from the place of the accident. PC Tevita then testified that he had drawn the Rough Sketch Plan being 'PEX3' and took the necessary measurements. He explained that there were no markings and that the road was narrow. He stated that the Rough Sketch Plan showed the tyre marks where the vehicle had gone off-road and into the drain which was on the left-hand side of the road just beside the road.
22. PC Tevita explained that he knew the vehicle had gone into the drain by the tyre marks and the grass that had been moved by the off-road vehicle. He agreed that he had shown the Rough Sketch Plan to the Accused after he had drawn it and that she signed the same. He then went on to explain that he had cautioned her that she would be charged for Careless Driving given that she was the driver of the vehicle that had gone off-road.
23. He then went on to explain that he conducted her Caution Interview being 'PEX1' and that she had admitted that she was the driver and then he issued her a TIN being 'PEX2'.
24. In cross examination, PC Tevita stated that position of the vehicle had been pointed out by the Complainant who had been the passenger with the Accused.
25. In the case of *Khan v State* [1994] FJHC 155; HAA0001j.1994b (21 October 1994) where His Lordship Justice Pathik referred to the following cases to ascertain what "without due care and attention" meant:

"In *McRONE v RIDING* 1938 1 AER 157 LORD HEWART C.J. said:

*"I think that it is not without significance that the statute uses both the word 'care' and the word 'attention'. In other words, the driver, whoever he may be, experienced or inexperienced, must see what he is about. He must pay attention to the thing he is doing, and, perceiving that which he is doing or entering upon, he must do his best, and he must show proper care in the doing of that thing upon which he is intent.. there is one standard only. 'Due care and attention' is something not related to the proficiency of the driver, but governed by the essential needs of the public on the highway."*

*In order to determine whether the offence of careless driving is committed, the test, as LORD GODDARD C.J. said in *SIMPSON v PEAT* (1952 1 AER. 447 at p.449) is: "was D exercising that degree of care and attention that a reasonable and prudent driver would exercise in the circumstances?" (emphasis is mine)*

26. Thus, it is evident that the standard of proof is an objective one on the basis that the degree of care and attention is what a reasonable and prudent driver would exercise in the circumstances.
27. The Rough Sketch Plan merely shows where the vehicle had supposedly landed which as per PC Tevita had been in the drain on the left-hand side of the road. PC Tevita stated that he drew the vehicle where the Complainant, who was the passenger in the vehicle the Accused had been driving, pointed to and because he - PC Tevita knew where the vehicle had gone into by the tyre marks and the grass that had been moved by the off-road vehicle.
28. Prosecution also relies on the Caution Interview of the Accused. Upon perusing the Accused's statement, whilst the Accused admits that she had been driving the vehicle with registration number EU906, she has provided an explanation with respect to what occurred.
29. In the case of ***Ali v State***; *Criminal Appeal No. HAA 08 of 2022 (21 April 2023)* His Lordship Justice Kulatunga dealt with exculpatory or mixed statements. He explained the following:

*"24 ...When an explanation in favour of the Accused arises in a mixed statement it should be considered.*

*25. Where a "mixed" statement is under consideration in a case where the defendant has not given evidence, the method most likely to produce a just result, is for the whole statement, both the incriminating parts and the excuses or explanations, be considered in deciding where the truth lies. (House of Lords in *R. v. Sharp*, [1988] 1 W.L.R. 7, and more recently in *R. v. Aziz*, [1995] 2 Cr. App. R. 478.)*

*26. Thus the Court should consider all of the denials and explanations when deciding whether the statements were true along the lines of *Duncan* in the following terms: The exculpatory statements or denials which tend to exonerate the Accused must be considered if it occurs in a statements of an incriminating nature. Though, excuses for one's own behaviour do not necessarily carry the same persuasive weight nevertheless, a denial or other exculpatory statement may raise a reasonable doubt. That is so because any statement or part of a statement allegedly made by an accused that is exculpatory, in the sense that it denies that he committed the offence, or provides an innocent explanation, is evidence in favour of that accused and if the evidence indicates that the Appellant could reasonably have made the exculpatory statement and it is reasonable to believe that the exculpatory statement could be true, then it may raise a reasonable doubt in favour of the Appellant.*

*27. However, when the Accused himself has given evidence and is silent on a particular exculpatory issue in this statement, such matter becomes inconsistent and is devoid of credibility."*

30. Thus, the Court is to consider both the incriminating parts and the excuses/explanations within the statement and decide where the truth lies.
31. In the Accused's Caution Interview, the Accused states that Priya, who had been the passenger made her – the Accused drive the vehicle and as she reached the top of Veisaru Back Road, they drove past the junction which they had to turn into. The Accused then went on to explain in her interview that Priya pulled the steering wheel which then caused the car to go off-road and end up in the drain. The Accused maintained that her passenger, Priya pulled the steering wheel (vide Questions & Answers 25-26).
32. Considering PC Tevita's evidence with the Rough Sketch Plan, Prosecution failed to elicit any other independent evidence with respect to how the accident had occurred to allow the Court to determine whether the Accused had driven without care and attention. The Accused's explanation in her Caution Interview of how the accident occurred creates a reasonable doubt in the Court's mind that the Accused failed to exercise care and attention.
33. Thus, considering the evidence in totality, the Court finds that Prosecution failed to satisfy beyond a reasonable doubt that the Accused drove motor vehicle with registration number EU 906 without due care and attention on 2 March 2024.

#### Determination

34. I find that Prosecution has failed to discharge its burden in proving all the elements of the offence of Careless Driving beyond a reasonable doubt.
35. I, therefore, find the Accused, Shaniya Shrishya Roy, not guilty and acquit her for 1 count of Careless Driving forthwith.
36. I, further order pursuant to regulation 7 (1C) of the Land Transport (Traffic Infringement Notice) Regulations 2017 that the Land Transport Authority must refund the payment of any fixed penalty and/or late payment fee paid by the Accused with respect to TIN Number 4852814 and that any entry with respect to TIN Number 4852814 be retracted from the Accused's record with the Land Transport Authority.
37. Any party aggrieved with this decision has 28 days to appeal to the High Court.

  
N. Mishra  
Resident Magistrate

